

HOUSE BILL 3592
By Pinion

AN ACT to amend Tennessee Code Annotated, Title 39, Chapter 15, Part 2, to require that only a physician perform abortions, to require informed consent prior to an abortion, to require a period of reflection prior to an abortion and to provide for an exception to regulation to protect the life or health of the mother.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. It is the intention of the general assembly in enacting this act to provide for reasonable regulation to promote the state's interest in protecting maternal health and life, potential life, and the health, safety and welfare of its citizens. This act requires abortions to be performed by licensed and regulated physicians; it requires that the informed written consent of the woman be obtained prior to an abortion; it provides for a short, twenty-four (24) hour period of reflection after the woman receives the information required for an informed consent; it provides exceptions to the informed consent and period of reflection requirement to protect the life or health of the mother; and it complies with current requirements of the Constitution of Tennessee, the United States Constitution and current judicial interpretations of such constitutions and federal and state statutes.

SECTION 2. Tennessee Code Annotated, Section 39-15-201(c), is amended by deleting subdivision (2) in its entirety and by substituting instead the following:

(2)

(A) After three months, but before viability of the fetus, if the abortion or attempt to procure a miscarriage is performed with the pregnant woman's consent and performed by the pregnant woman's attending physician, who is licensed or certified under title 63, chapter 6 or 9, pursuant to the attending physician's medical judgement; or

SECTION 3. Tennessee Code Annotated, Section 39-15-202, is amended by deleting such section in its entirety and by substituting instead the following:

(a) An abortion otherwise permitted by law shall be performed or induced only with the informed written consent of the pregnant woman, given freely and without coercion. Such consent shall be treated as confidential.

(b) In order to ensure that a consent for an abortion is truly informed consent, an abortion shall be performed or induced upon a pregnant woman only after she has been informed by her attending physician or other appropriate health care professional of the following facts and has signed a consent form acknowledging that she has been informed as follows:

(1) That according to the best judgment of the attending physician or other health care professional she is pregnant;

(2) The number of weeks elapsed from the probable time of the conception of her unborn child, based upon the information provided by her as to the time of her last menstrual period or after a history, physical examination, and appropriate laboratory tests;

(3) That if more than twenty-four (24) weeks have elapsed from the time of conception, her child may be viable, that is, capable of surviving outside of the womb, and that if such child is prematurely born alive in the course of an abortion her attending physician has a legal obligation to take steps to preserve the life and health of the child;

(4) That numerous public and private agencies and services are available to assist her during her pregnancy and after the birth of her child, if she chooses not to have the abortion, whether she wishes to keep her child or place the child for adoption, and that she will be provided with a list of such agencies and the services available if she so requests; and

(5) Numerous benefits and risks are attendant either to continued pregnancy and childbirth or to abortion depending upon the circumstances in which the patient might find herself. These benefits and risks shall be explained

to the best of such physician's or health care professional's ability and knowledge of the circumstances involved.

(c) At the same time the woman is given the information required by subsection (b), the physician or other health care professional shall also inform the pregnant woman of the particular risks associated with her pregnancy and childbirth and the abortion or child delivery technique to be employed, including providing her with at least a general description of the medical instructions to be followed subsequent to the abortion or childbirth in order to ensure her safe recovery.

(d)

(1) No abortion shall be performed until twenty-four (24) hours after the physician or other health care provider provides the required information.

(2) A violation of this subsection by a physician, except as provided in subsection (f), is a Class E felony.

(e) The physician performing or inducing the abortion shall provide the pregnant woman with a duplicate copy of the consent form signed by her.

(f) The provisions of this section shall not apply in those situations where an abortion is certified by a licensed physician as necessary to preserve the life or health of the pregnant woman.

SECTION 4. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

SECTION 5. This act shall take effect July 1, 2004, the public welfare requiring it.